

ESTTA Tracking number: **ESTTA992658**

Filing date: **08/05/2019**

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

Petition for Cancellation

Notice is hereby given that the following party has filed a petition to cancel the registration indicated below.

Petitioner Information

| | | | |
|---------|----------------------------------------------------------------------|-------------|---------------|
| Name | Corey Arvinger | | |
| Entity | Individual | Citizenship | UNITED STATES |
| Address | 780 Morosgo Drive NE #14879 Atlanta, GA 30324 UNITED STATES | | |

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| Attorney information | Shade' Dixon Tyree Hyche & Dixon, LLC 1100 Peachtree Street, NE Suite 200 Atlanta, GA 30309 UNITED STATES shade@thdlegal.com 4044902057 |
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Registrations Subject to Cancellation

| | | | |
|------------------|----------------------------------------------------------------------------------|-------------------|------------|
| Registration No. | 5595593 | Registration date | 10/30/2018 |
| Registrant | Arvinger, Nickwon 18 Butternut St. Jersey City,, NJ 07305 UNITED STATES | | |

Goods/Services Subject to Cancellation

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| Class 025. First Use: 2012/01/01 First Use In Commerce: 2012/02/01 All goods and services in the class are subject to cancellation, namely: Clothing, namely, headwear, footwear, tops, bottoms, sweatshirts, sweatpants, hats, beanies, and headbands |
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Grounds for Cancellation

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|------------------------------------------------------------------------|-----------------------------------------------------------------------------------------------|-------------------|------------|
| Priority and likelihood of confusion | Trademark Act Sections 14(1) and 2(d) | | |
| Registrant not rightful owner of mark for identified goods or services | Trademark Act Sections 14(1) and 1 | | |
| Fraud on the USPTO | Trademark Act Section 14(3); In re Bose Corp., 580 F.3d 1240, 91 USPQ2d 1938 (Fed. Cir. 2009) | | |
| Registration No. | 5595595 | Registration date | 10/30/2018 |
| Registrant | Arvinger, Nickwon 18 Butternut St. | | |

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| | Jersey City,, NJ 07305 UNITED STATES |
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Goods/Services Subject to Cancellation

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Marks Cited by Petitioner as Basis for Cancellation

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|------------------------------------|----------------------------------------------------------------------------------------------------------------------------------------------|------------------|------|
| U.S. Application/ Registration No. | NONE | Application Date | NONE |
| Registration Date | NONE | | |
| Word Mark | SUPPORT BLACK COLLEGES | | |
| Goods/Services | Clothing, namely, shirts, t-shirts, hoodies, pants, headwear, footwear, tops, bottoms, sweatshirts, sweatpants, hats, beanies, and headbands | | |
| U.S. Application/ Registration No. | NONE | Application Date | NONE |
| Registration Date | NONE | | |

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|----------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| Design Mark |  The logo for 'Support Black Colleges' features the word 'SUPPORT' in black capital letters on a red, curved banner at the top. Below the banner is a yellow semi-circle, followed by a green wavy line. The word 'BLACK' is written in large, bold, white capital letters with a black outline. Below 'BLACK' is a thick green horizontal bar, and the word 'COLLEGES' is written in white capital letters with a black outline below the bar. |
| Goods/Services | Clothing, namely, shirts, t-shirts, hoodies, pants, headwear, footwear, tops, bottoms, sweatshirts, sweatpants, hats, beanies, and headbands |

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|-------------|--------------------------------------------------------------------------------------|
| Attachments | SBC Logo.jpg Petition for Cancellation - Support Black Colleges.pdf(99637 bytes) |
|-------------|--------------------------------------------------------------------------------------|

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| Signature | /Shade Dixon/ |
| Name | Shade' Dixon |
| Date | 08/05/2019 |

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

In re Registration of Nickwon Arvinger

Mark: SUPPORT BLACK COLLEGES
Reg. No.: 5,595,593

Mark: SUPPORT BLACK COLLEGES
Reg. No.: 5,595,595

COREY ARVINGER

Petitioner,

v.

NICKWON ARVINGER

Registrant.

CANCELLATION NO: _____

PETITION FOR CANCELLATION

NICKWON ARVINGER, an individual, with an address at 18 Butternut Street Jersey City, New Jersey 07305 (“Registrant”), is listed in the records of the U.S. Patent and Trademark Office (“USPTO”) as the registrant of U.S. Registration No. 5,595,593 and U.S. Registration No. 5,595,595 (the “Registration”) of SUPPORT BLACK COLLEGES (the “Mark”), issued on October 30, 2018, for “Clothing, namely, headwear, footwear, tops, bottoms, sweatshirts, sweatpants, hats, beanies, and headbands” in International Class 25. Ruth Khalsa, Esq., LegalForce RAPC Worldwide, P.C., 446 E Southern Avenue, Tempe, Arizona 85282, trademarks@legalforce.com, is listed as attorney of record and as email contact.

COREY ARVINGER (“Petitioner”), an individual with an address of 780 Morosgo Drive NE #14879, Atlanta, Georgia 30324, info@supportblackcolleges.org, is the creator of the *Support Black Colleges* brand and co-owner of Support Black Colleges, LLC. He believes that

he will be damaged by the continued registration of the Mark and hereby petitions to cancel the Registration. As the owner of a competing clothing company that sells shirts, sweatshirts, hats, pants and other clothing items, Petitioner has a direct and personal stake in the outcome of the proceeding. The continued presence of the Registration on the federal trademark register constitutes an obstacle to Petitioner's continued growth of the *Support Black Colleges* brand. The Registration, thus, is causing injury and damage to Petitioner, and Petitioner has standing to challenge it.

The grounds for cancellation are as follows:

COUNT I
THE REGISTRATION IS VOID BECAUSE THE REGISTRANT IS NOT THE
OWNER OF THE MARK

1. Petitioner is the co-owner of Support Black Colleges, LLC, a well-known e-commerce store that has over 90,000 social media followers and has been featured on *Radio One*, *The Ricky Smiley Morning Show*, WeTV's *Growing Up Hip-Hop*, *EssenceFest* 2019 and NBA All Star Weekend 2019, to name a few.
2. Petitioner conceived the Mark and has been using it since January 2012, shortly after he developed a partnership with Registrant. As a college student at Howard University in Washington D.C., one of the premier Historically Black Colleges and Universities, Petitioner developed the Mark to sell merchandise on campus and at Howard University's 2012 Homecoming.
3. Registrant served solely as a designer and manufacturer for the *Support Black Colleges* brand, as he was the owner of multiple other brands and a separate online store.
4. Since January 2012, Petitioner has controlled the nature and quality of the goods (clothing, namely, shirts, sweatshirts, hoodies, hats, caps, pants, shorts and more) in connection with the Mark. Petitioner has handled all business, branding, marketing, day-to-day operations,

corporate and influencer sponsorships, website maintenance, speaking engagements, social media management and business negotiations regarding the Mark since he created it in January 2012.

5. The official *Support Black Colleges* website, which Petitioner manages, launched on October 2, 2015. To date, the e-commerce store, has welcomed over 301,000 visitors and over \$450,000 in online sales for *Support Black Colleges* branded clothing.
6. Since the creation of the Mark, Registrant has never controlled the brand. He has only served in the capacity of designer and manufacturer, which ceased October 2018.
7. The Registration creates a legal presumption that Registrant has valid and exclusive rights in the Mark for goods identified in the Registration.
8. For the reasons set forth above, Registrant is not entitled to the Registration or to the legal presumptions that the Registration creates.
9. The continued presence of the Registration on the federal trademark register constitutes an obstacle to Petitioner's continued growth of the *Support Black Colleges* brand. The Registration, thus, is causing injury and damage to Petitioner.

COUNT II
THE REGISTRATION IS VOID BECAUSE THERE IS A LIKELIHOOD OF
CONFUSION

10. Petitioner incorporates paragraphs 1- 9 by reference.
11. Consumers recognize Petitioner's store as the source of the Mark. This is evidenced by numerous celebrities' (including Hollywood film producers Tyler Perry and Will Packer, NBA superstars Chris Paul and John Wall, Missy Elliott, T.I., Issa Rae, Teyana Taylor, Da Brat, Ludacris, to name a few) mention of Petitioner and Petitioner's store while wearing *Support Black Colleges* branded clothing. Registrant's sale of *Support Black Colleges* branded merchandise on his store confuses consumers as to the source of the goods.

12. The Registration creates a legal presumption that Registrant has valid and exclusive rights in the Mark for goods identified in the Registration.
13. For the reasons set forth above, Registrant is not entitled to the Registration or to the legal presumptions that the Registration creates.
14. The continued presence of the Registration on the federal trademark register constitutes an obstacle to Petitioner's continued growth of the *Support Black Colleges* brand. The Registration, thus, is causing injury and damage to Petitioner.

COUNT III
THE REGISTRATION IS VOID FOR FRAUD ON THE U.S. PATENT AND
TRADEMARK OFFICE

15. Petitioner seeks to cancel the Registration on the ground that, on information and belief, it was obtained as a result of knowingly false statements about the ownership and use of the Mark, which were made with the intent to deceive the USPTO and constitute fraud on the USPTO.
16. Petitioner incorporates paragraphs 1- 14 by reference.
17. Registrant was fully aware of Petitioner's rights in the Mark when both applications were filed. Petitioner filed the applications only after noticing the traction that the brand received when Missy Elliott, a pop superstar, multi-platinum artist and four-time Grammy winner wore a *Support Black College's* shirt and mentioned Petitioner's store.
18. Registrant's sworn declaration stating that "the applicant is the owner of the trademark/service mark sought to be registered" was false. This false declaration was made knowingly and with the intent to deceive the USPTO for the purpose of obtaining the Registration.
19. Registrant's sworn declaration acknowledges that willful false statements jeopardize the

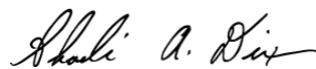
validity of the Registration.

20. The USPTO accepted Registrant's sworn declaration and approved the SUPPORT BLACK COLLEGES Applications for publication, which is a prerequisite to registration. Accordingly, the declaration was material.
21. Registrant's sworn declaration was knowingly false, made with the intent to deceive the USPTO and was material to the USPTO's decision to issue the Registration. As a result, the Registration is invalid because it was procured through fraud on the USPTO.
22. The Registration creates a legal presumption that Registrant has valid and exclusive rights in the Mark for goods identified in the Registration.
23. For the reasons set forth above, Registrant is not entitled to the Registration or to the legal presumptions that the Registration creates.
24. The continued presence of the Registration on the federal trademark register constitutes an obstacle to Petitioner's continued growth of the *Support Black Colleges* brand. The Registration, thus, is causing injury and damage to Petitioner.

WHEREFORE, Petitioner Corey Arvinger prays that Registration Nos. 5,595,593 and 5,595,595 be canceled.

Dated: August 5, 2019

Respectfully submitted,



Shade' A. Dixon, Esq.
Tyree Hyche & Dixon, LLC
1100 Peachtree Street, Suite 200
Atlanta, Georgia 30309
Phone: (404) 490-2057
Email: shade@thdlegal.com

Attorney for Corey Arvinger

CERTIFICATE OF SERVICE

I hereby certify that, on August 5, 2019, a true and correct copy of the foregoing Petition for Cancellation has been duly served by sending such copy via first class certified mail and email to Ruth Khalsa, Esq. (trademarks@legalforce.com) of LegalForce RAPC Worldwide, P.C., 446 E Southern Avenue, Tempe, Arizona 85282.



Shade' A. Dixon, Esq.
Attorney for Corey Arvinger